

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

JOSHUA GARY/KRISTEN GARY, VC 2013-PR-022 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit accessory structure in front yard on a lot containing 36,000 sq. ft. or less. Located at 6940 Cavalier Trail, Falls Church, 22042, on approx. 9,790 sq. ft. of land zoned R-4 and HC. Providence District. Tax Map 50-2 ((4)) 53 (Concurrent with SP 2013-PR-092). Mr. Byers moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 15, 2014; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the property.
2. The present zoning is R-4 and HC.
3. The area of the lot is 9,790 square feet.
4. The subject property was acquired in good faith.
5. There is exceptional shallowness at the time of the effective date of the Ordinance.
6. This is an unusual situation. They have about 5.0 feet that is useable backyard.
7. There is exceptional size at the time of the effective date of the Ordinance, 9700 square feet. That is a relatively small lot.
8. An extraordinary situation or condition of the subject property, is a corner lot.
9. The Board has had these cases many, many times before, and that is always an issue from the standpoint of what constitutes a backyard, a side yard, and a front yard.
10. Under the most stringent of the criteria, under 6, the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the use of the subject property. Certainly it would in the backyard.
11. It will not hurt anything.
12. Most folks support this from the standpoint of the petition and the emails.
13. The granting of the variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
14. The remainder of the criteria are met.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.


NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved to permit the accessory structure, a fire pit, to remain in the front yard of the property as shown on the plat "Plat Showing the Improvements on, Lot 53, Section 2, Greenway Downs," prepared by George M. O'Quinn, L.S, of Dominion Surveyors, Inc., dated June 1, 2013, as revised through October 23, 2013, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Mr. Smith seconded the motion, which carried by a vote of 5-0. Mr. Hammack and Mr. Beard were absent from the meeting.

A Copy Teste:



Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals